

REMARKS

This paper is filed in response to the Office Action dated June 3, 2003, wherein the finality of the Office Action dated December 2, 2002 has been withdrawn and an election of species requirement was imposed. This response is timely filed.

In the official action, the examiner indicated that the present claims are directed to six distinct species of the claimed invention: apple, tomato, grape, pear, plum and avocado. *See* official action at page 3. The election of a single species is required.

In the present amendment, the claims have been amended to recite two of the aforementioned species, apple and tomato. The amendment does not contain new matter.

In accordance with the requirement set forth in the official action, the applicants provisionally elect apple.

Currently, claims 5-10, 19-23, and 37-39 are generic in relation to the species identified by the examiner; claims 5-10, 19-23, 34, and 37-39 read on the provisionally elected species; and, claim 35 does not read on the provisionally elected species and is not generic.

Additionally, the examiner indicated that the application contains dependent claims, which recite plant genera. *See* official action at page 3. The application does not contain such dependent claims. Thus, the examiner's remark is respectfully traversed.

Should the examiner wish to discuss the foregoing, or any matter of form or procedure in an effort to advance this application to allowance, she is respectfully invited to contact the undersigned attorney at the indicated telephone number.

Respectfully submitted,  
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July 1, 2003

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**APPENDIX A**

**CLEAN COPY OF ALL PENDING CLAIMS  
UPON ENTRY OF INSTANT AMENDMENT**

**1.-4. (Cancelled)**

5. (Currently Amended) A method for producing a preparation possessing antiviral activity comprising substances obtained from cuticular or epicuticular layers external to an epidermis of a plant or plant part, the method comprising:

- a) exposing the plant or plant part to a solvent under conditions sufficient to solubilize materials in the cuticular and epicuticular layers of the plant, while leaving cells and tissues internal to the epidermis substantially unaffected; and
- b) obtaining a solution or suspension of plant cuticular and epicuticular materials, thereby producing the antiviral preparation, wherein the plant or plant part is selected from the group consisting of apple and tomato.

6. (Original) The method of claim 5 wherein the solvent comprises one or more ingredients selected from the group consisting of hexane, chloroform, dichloromethane, heptane, ether, petrolether, t-butyl ether, DMSO, supercritical fluids and carbon dioxide.

7. (Original) The method of claim 5 wherein the step of exposing comprises dipping the plant or plant part into the solvent.

8. (Previously Amended) The method of claim 5 wherein the step of exposing comprises spraying the plant or plant part with the solvent.

9. (Previously Amended) The method of claim 19 wherein the removal of the solvent is performed by a method selected from the group consisting of aspiration, static evaporation, heating, centrifugal evaporation, rotary evaporation, vortex evaporation, lyophilization, liquid-liquid separation, solid-liquid separation and precipitation.

10. (Original) An antiviral preparation prepared by the method of claim 5.

11.-18. (Cancelled)

19. (Previously Added) The method according to claim 5 further comprising removing the solvent.

20. (Previously Added) The method according to claim 19 further comprising redissolving the antiviral preparation in a biologically compatible medium.

21. (Previously Added) The method according to claim 5 further comprising clarifying the solution or suspension of plant cuticular and epicuticular materials.

22. (Previously Added) The method according to claim 5 further comprising formulating the antiviral preparation into a pharmaceutical composition.

23. (Previously Added) The method according to claim 5 further comprising formulating the antiviral preparation into a nutraceutical composition.

24.-33. (Cancelled)

34. (Previously Amended) The method of claim 5 wherein the plant or plant part is apple.

35. (Previously Amended) The method of claim 5 wherein the plant or plant part is tomato.

36. (Cancelled)

37. (Previously Amended) The method of claim 5 wherein the plant or plant part is exposed to a solvent from about three minutes to about five minutes.

38. (Previously Added) The method of claim 37 wherein the plant or plant part is exposed to a room temperature solvent.

39. (Previously Added) The method of claim 5 wherein the plant or plant part is fruit peel.